IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 11131 of 2006(A)

STC.554/2004 of J.M.F.C.-I, KANNUR

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PETITIONER:

HARI G. NAIR, GOKULAM,
KADAKKAD, PANDALAM.

BY ADV. SHRI.MATHEWS J.NEDUMPARA
SRI.S.JAMAL
SRI.BIMAL K.NATH
SRI.SREEVALSAN.V

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
KAKANAD, COCHIN.
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. RUBCO SREEKANTAPURAM LATEX (P) LTD.,
REP. BY ITS COMPANY SECRETARY, KVR TOWERS,
4TH FLOOR, MAHATMA MANDIR JN. SOUTH BAZAR,
KANNUR.

3. THE JUDICIAL FIRST CLASS MAGISTRATE,
KANNUR.

R1 & 3 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR
SRI.C.P.MOHAMMED NIAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/03/2007, A/W. WPC 11477 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.Nos.11131 & of 2006 A &
11477 of 2006 N

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Dated this the 5th day of March, 2007

JUDGMENT

The grievance of the petitioner, one Hari G. Nair, is that he has been wrongly proceeded against personally as the first accused in two cases, i.e. S.T.C. Nos. 554 and 555 of 2004, both pending before the J.F.C.M. - I, Kannur. The first accused shown therein is the Managing Director of M/s. Janco Dipped Products Private Ltd., Cochin and the second accused is the said Company represented by its Managing Director. In both cases cognizance has been taken and proceedings are pending against the accused persons reckoning the petitioner as the first accused.

2. The petitioner had come before this Court complaining about the initiation and continuance of the proceedings against him and another Bench of this Court as per common order dt. 19.8.2005, produced as Ext.P2, has come to the conclusion that the petitioner is the Managing Director and proceedings can continue against the

petitioner in his capacity as the Managing Director of the second accused company.

3. It is fairly submitted before this Court that attempt to challenge Ext.P2 before the Supreme Court has been rejected by the Supreme Court.

4. In these circumstances one would have expected the petitioner to appear before the learned Magistrate as the first accused in the two cases i.e. S.T.C. Nos. 554 and 555 of 2004. The petitioner has not appeared so far admittedly. He has chosen to come before this Court again repeating the very same contention that he is not the Managing Director and therefore he should not be proceeded against as the first accused in the above two cases. On the face of Ext.P2, petitioner cannot be heard to advance such a contention again. He cannot obviously succeed. Having not challenged Ext.P2, the said request of the petitioner cannot at all be accepted.

5. These writ petitions are accordingly dismissed.

(R. BASANT)
Judge

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